

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2020066841402**

TO: Department of Enforcement
Financial Industry Regulatory Authority (FINRA)

RE: Kyle Luebeck (Respondent)
Investment Company and Variable Contracts Products Representative
CRD No. 5931863

Pursuant to FINRA Rule 9216, Respondent Kyle Luebeck submits this Letter of Acceptance, Waiver, and Consent (AWC) for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against Respondent alleging violations based on the same factual findings described in this AWC.

I.

ACCEPTANCE AND CONSENT

- A. Respondent accepts and consents to the following findings by FINRA without admitting or denying them:

BACKGROUND

Luebeck first became registered with FINRA as an Investment Company and Variable Contracts Products Representative (IR) through an association with Mutual of Omaha Investor Services, Inc. in August 2011. In May 2020, Mutual of Omaha filed a Uniform Termination Notice for Securities Industry Registration (Form U5) terminating Luebeck's registration with the firm. Since May 15, 2020, Luebeck has been registered as an IR through an association with another FINRA member firm.¹

OVERVIEW

In anticipation of joining another FINRA member firm, Luebeck improperly removed nonpublic personal customer information from Mutual of Omaha, without Mutual of Omaha or the customers' knowledge or consent. As a result, Luebeck failed to observe high standards of commercial honor and just and equitable principles of trade in violation of FINRA Rule 2010.

¹ For more information about the respondent, visit BrokerCheck® at www.finra.org/brokercheck.

FACTS AND VIOLATIVE CONDUCT

FINRA initiated this matter based upon the Form U5 amendment filed by Mutual of Omaha in June 2020 reporting that the firm had initiated an internal review of Luebeck.

FINRA Rule 2010 requires registered persons, in the conduct of their business, to observe high standards of commercial honor and just and equitable principles of trade. Registered persons have a duty to maintain the confidentiality of customers' nonpublic personal information, and breaching this duty is a violation of Rule 2010.

Customers' nonpublic personal information, including date of birth, social security and driver's license numbers, account numbers, and tax information, is protected under Regulation S-P. In addition, at all relevant times, Mutual of Omaha maintained policies and procedures that required its registered representatives to protect customers' nonpublic personal information. Mutual of Omaha policies also stated that representatives who terminate their affiliation with the firm may not retain financial information for any Mutual of Omaha customers.

In May 2020, in anticipation of joining another FINRA member firm, Luebeck improperly removed his customers' nonpublic personal information from Mutual of Omaha, without Mutual of Omaha's or the customers' knowledge or consent. Specifically, on May 14 and May 15, 2020, while associated with Mutual of Omaha, Luebeck sent emails from his Mutual of Omaha email account to an outside email account that he controlled. The emails contained customers' nonpublic personal information as defined by Regulation S-P that Luebeck received as part of his employment with the firm. Luebeck retained this information after the termination of his association with Mutual of Omaha during which time he was not entitled to possess the information. Among other things, the emails contained customers' dates of birth, social security numbers, investment account numbers, life insurance policy numbers, tax filings, and a driver's license number. Luebeck resigned from Mutual of Omaha on May 15, 2020, and associated with another FINRA member firm the same day.

By virtue of the foregoing, Luebeck failed to observe high standards of just and equitable principles of trade in violation of FINRA Rule 2010.

B. Respondent also consents to the imposition of the following sanctions:

- a 10 business-day suspension from associating with any FINRA member in all capacities; and
- a \$5,000 fine.

Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Respondent has submitted an

Election of Payment form showing the method by which he proposes to pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim an inability to pay, now or at any time after the execution of this AWC, the monetary sanction imposed in this matter.

Respondent understands that if he is barred or suspended from associating with any FINRA member, he becomes subject to a statutory disqualification as that term is defined in Article III, Section 4 of FINRA's By-Laws, incorporating Section 3(a)(39) of the Securities Exchange Act of 1934. Accordingly, he may not be associated with any FINRA member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension. See FINRA Rules 8310 and 8311.

The sanctions imposed in this AWC shall be effective on a date set by FINRA.

II.

WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a complaint issued specifying the allegations against him;
- B. To be notified of the complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made, and to have a written decision issued; and
- D. To appeal any such decision to the National Adjudicatory Council (NAC) and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Respondent specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Legal Officer, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

Respondent further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

Respondent understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against Respondent; and
- C. If accepted:
 - 1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator against Respondent;
 - 2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;
 - 3. FINRA may make a public announcement concerning this agreement and its subject matter in accordance with FINRA Rule 8313; and
 - 4. Respondent may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Respondent may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects Respondent's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party. Nothing in this provision affects Respondent's testimonial obligations in any litigation or other legal proceedings.
- D. Respondent may attach a corrective action statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that he may not deny the charges or make any statement that is inconsistent with the AWC in this statement. This statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA.


Respondent certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; Respondent has agreed to the AWC's

provisions voluntarily; and no offer, threat, inducement, or promise of any kind, other than the terms set forth in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce him to submit this AWC.

8/24/22
Date


Kyle Luebeck
Respondent

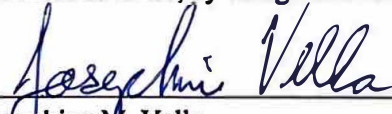
Reviewed by:


Steven M. Malina
Counsel for Respondent
Greenberg Traurig, LLP
77 West Wacker Drive, Suite 3100
Chicago, IL 60601

Accepted by FINRA:

8/30/2022
Date

Signed on behalf of the
Director of ODA, by delegated authority


Josephine M. Vella
Principal Counsel
FINRA
Department of Enforcement
200 Liberty Street, 11th Floor
New York, NY 10281